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CITY AND COUNTY OF SAN FRANCISCO ET AL.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CLIFFORD COOK,

Plaintiff,

vs.

CITY AND COUNTY OF SAN  
FRANCISCO, ANTONIO FLORES,  
DON SLOAN, MARSHA ASHE, and  
DOES 1-50, inclusive,

Defendants.

Case No. C 07 2569 CRB

**DECLARATION OF MARGARET W.  
BAUMGARTNER IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Date: Feb. 22, 2008  
Time: 10:00 a.m.  
Place: Ctrm. 8, 19<sup>th</sup> Fl.

Date action filed:  
Trial date: None set

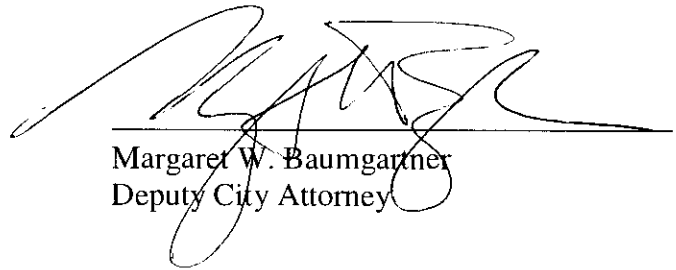
1 I, Margaret W. Baumgartner, declare:

- 2 1. I am a Deputy City Attorney with the San Francisco City Attorney's Office. I am the attorney  
3 assigned to this matter. I have personal knowledge of the facts contained herein, except for  
4 those facts stated on information and belief, and as to those facts I believe them to be true. If  
5 called upon to testify, I could and would testify competently hereto.
- 6 2. Attached hereto as Exhibit 1 are pertinent pages from the deposition of plaintiff Clifford Cook.
- 7 3. Attached here as Exhibit 2 is a print out of the minute order reflecting the Court's ruling granting  
8 the City's motion to dismiss plaintiff's due process claim without leave to amend.

9 I declare under the penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct.

11 Dated: January 18, 2008

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Margaret W. Baumgartner  
Deputy City Attorney

# **EXHIBIT "1"**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CLIFFORD COOK,

CERTIFIED COPY

Plaintiff,

vs.

CASE NO. C07 2569

CITY AND COUNTY OF SAN  
FRANCISCO, ANTONIO FLORES,  
DON SLOAN, MARSHA ASHE, and  
DOES 1 - 50, inclusive,  
Defendants.

-----/

DEPOSITION OF  
CLIFFORD COOK  
December 4, 2007

Reported by:  
SUSAN IMPERIAL  
CSR #11219

HANNAH KAUFMAN & ASSOCIATES, INC.  
Certified Shorthand Reporters  
472 Pacheco Street  
San Francisco, CA 94116  
(415) 664-4269

1 Q. How long have you been in the Operation Center?

2 A. Since August. Someplace around the 14th, I  
3 think. 14th or 15th of August.

4 Q. Of this year?

5 A. Of this year.

6 Q. Where were you before the Operation Center?

7 A. Robbery detail.

8 Q. When did you start working for the robbery  
9 detail?

10 A. I think in May of -- I guess May of 2002.

11 Q. When did you join the department?

12 A. When did I --

13 Q. When did you become a police officer? When did  
14 you join the department?

15 A. In June of '91.

16 Q. And you've been working for the S.F.P.D. ever  
17 since that time?

18 A. Yes.

19 Q. Do you currently have any other jobs?

20 A. No.

21 Q. Have you ever worked in the domestic violence  
22 unit?

23 A. No.

24 Q. What are your current -- what are your current  
25 tasks at the Operation Center? What does somebody who

1 works in the Operation Center do?

2 A. You field phone calls from patrol and, if  
3 necessary, you contact the different inspectors that the  
4 crime may relate to.

5 Q. So that's an internal -- it's what I think is  
6 colloquially referred to as a desk job?

7 A. It's a non-public-contact job.

8 Q. And you're currently disarmed. Is that correct?

9 A. Yes.

10 Q. Have you made a request to the Weapons Review  
11 Panel to be re-armed?

12 A. No.

13 Q. Where do you currently reside?

14 A. San Francisco.

15 MR. SCOTT: You know the law better than I do on  
16 this one.

17 MS. BAUMGARTNER: I was just going to ask.  
18 That's why I was pausing. I was figuring out how to ask  
19 this question.

20 Q. Does the department have your current address?

21 A. Yes.

22 Q. All right. Does anyone reside with you at your  
23 current address?

24 A. No.

25 Q. How long have you lived where you currently live?

1 A. I had no idea because they didn't explain it to  
2 me. Don Sloan downstairs, he didn't say what they wanted  
3 to talk about. He just said, "We need to talk to you up  
4 in 400."

5 Q. Was Lieutenant Sloan assigned to DV at that time?

6 A. Yes.

7 Q. And you were aware of that?

8 A. Yes.

9 Q. So you went to robbery, and then you walked over  
10 with Lieutenant Loftus.

11 And was Mike Lewis still with you?

12 A. Mike Lewis had left and -- Mike Lewis left. He  
13 had to go up to his office, and he came back downstairs.

14 Q. So when you were walking between robbery and Room  
15 400, you were with John Loftus?

16 A. Correct.

17 Q. And no one else?

18 A. No one else.

19 Q. And so what happened when you showed up in Room  
20 400?

21 A. Walked into 400, Captain Cashman was there. Then  
22 Mike -- so we waited for Mike to show up before we go into  
23 the room.

24 Q. How did it come about that you waited for Mike?

25 A. Because we were in the lobby. Because I wanted

1 Mike to be in the room with us when we were going to have  
2 our discussion.

3 Q. So you asked Captain Cashman to wait for Mike?

4 A. Yeah. I said we were waiting for Mike.

5 Q. How long did you have to wait for Mike?

6 A. I don't know. Less than five minutes.

7 Q. Did Captain Cashman have a conversation with you  
8 while you were waiting?

9 A. I don't recall.

10 Q. What was your understanding of why Captain  
11 Cashman was there?

12 A. That's his office. He works at 400.

13 Q. He was in your chain of command, correct?

14 A. Yes. He's above John Loftus.

15 Q. So he's John Loftus's boss?

16 A. Correct.

17 Q. Okay. And what happened after -- is it Inspector  
18 Lewis?

19 A. No. Officer.

20 Q. Officer Lewis. What happened after Officer Lewis  
21 showed up?

22 A. We all went into the room.

23 Q. That's the conference room right there to the  
24 left in Room 400?

25 A. No. We actually weren't in the conference room.



1 We were in the other captain's office. So that was the  
2 office of -- John Hennessey's office.

3 Q. So you went into John Hennessey's office?

4 A. Right.

5 Q. Was John Hennessey there?

6 A. No.

7 Q. So it was you, Captain Cashman, John Loftus, Mike  
8 Lewis. Was anybody else present?

9 A. Yeah.

10 Q. Who else?

11 A. Lieutenant Don Sloan and Captain Marsha Ashe.

12 Q. Was Deputy Chief Tabak there?

13 A. No.

14 Q. So what happened when you were all in the room?

15 A. They had a tape going on the table, and they  
16 informed me that I was going to be arrested on an  
17 allegation of domestic violence. After they informed me  
18 of the arrest, they informed me that there was a tape  
19 going.

20 Q. Okay. And what happened after they said you  
21 would be arrested?

22 A. I told them, "On an allegation?"

23 And they said, "Yes."

24 And Sloan made the comment that, "We were  
25 investigating this thing up to 11:00 o'clock last night."

1 And then I said, "No one has heard my side of the  
2 story."

3 Q. And what happened after that?

4 A. I told them they hadn't heard my side of the  
5 story. Don Sloan did inform me that Lisa had injuries; a  
6 possible broken finger and bruises. And I can't -- and  
7 then they basically left out of the room.

8 Q. Besides you saying they hadn't heard your side of  
9 the story, did you say anything else?

10 A. Yeah. I said she was drunk, and I can't recall  
11 what else I said.

12 Q. Did they read you Miranda rights?

13 A. No.

14 Q. And then what happened?

15 A. We sat down, Captain Cashman left the room. And  
16 I presume he called Steve Johnson, the POA rep, because  
17 moments later, he came up to Room 400.

18 Q. Had you previously called a union rep?

19 A. No.

20 Q. So even though you had been disarmed the day  
21 before, a couple of days before, you never called a union  
22 rep?

23 A. No.

24 Q. So Captain Cashman returned to the room with  
25 Steve Johnson?

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1 A. He returned to the room, Steve Johnson returned  
2 moments later.

3 Q. And then what happened?

4 A. We were then discussing the whole situation; the  
5 arrest, the allegations. Steve Johnson advocated for  
6 Captain Cashman to go out and ask Lieutenant Sloan and  
7 Captain Ashe for me to give a statement on what happened.  
8 Captain Cashman left the room, went out, and spoke to  
9 Lieutenant Ashe --

10 Q. I'm sorry, I missed something here. When you say  
11 Captain Cashman left the room and you believe he called  
12 Steve Johnson, were Lieutenant Sloan and Captain Ashe  
13 still in the room?

14 A. No.

15 Q. When did they leave?

16 A. They left momentarily after they told me that I  
17 was being arrested on an allegation, the injury. I made  
18 the statement about her being drunk, no one heard my side  
19 of the story. They then left the room.

20 Q. How long were you in that room when Don Sloan and  
21 Captain Ashe were also present?

22 A. Maybe five minutes.

23 Q. And then when Captain Cashman left, Mike Lewis  
24 and John Loftus were still in the room?

25 A. Yes.

1 Q. And then Cashman and Johnson showed up. So  
2 again, there were five of you in the room?

3 A. Well, Cashman called Johnson, I presume. And  
4 Cashman came back into the room, and then Steve Johnson  
5 showed up.

6 Q. Okay. Then you had a conversation, and Steve  
7 Johnson encouraged Captain Cashman to go talk to Don Sloan  
8 and Marsha Ashe?

9 A. Well, Steve Johnson, the PR rep, stated that we  
10 can have an attorney up here in a matter of minutes, let  
11 him give a statement on what happened; his side of the  
12 story.

13 And Captain Cashman went outside the room and  
14 spoke, I presume, to Ashe and Sloan. And he came back in  
15 and said, no, they won't do it.

16 Q. Won't do what?

17 A. Won't let me give a statement. Statement or  
18 interview.

19 Q. So who actually put you under arrest?

20 A. Well, Captain Ashe and Lieutenant Sloan. Their  
21 name was on the arrest cards. On the booking cards. And  
22 they were the only two officers in the room opposite the  
23 people that I brought in.

24 Q. And so when Captain Cashman left the room to  
25 presumably go call Steve Johnson, at that point you were

1 under arrest, correct?

2 A. Yeah. I was under arrest. The moment they told  
3 me I was being arrested on an allegation, I was under  
4 arrest.

5 Q. And who actually did that? Was it Lieutenant  
6 Sloan or Captain Ashe?

7 A. Well, Captain Ashe I believe said, "You're under  
8 arrest." Well, Captain Ashe said that, "We're arresting  
9 you on an allegation." She said, "You're going to be  
10 placed under arrest for DV."

11 And I said, "You're arresting me on an  
12 allegation?"

13 Q. Did Deputy Chief Tabak ever come in?

14 A. Never.

15 Q. And so after Cashman came back in and said that  
16 they wouldn't let you give a statement, what happened?

17 A. We were arranging to make bail. Mike Lewis -- we  
18 started inquiring what bail would be -- the cost of bail.

19 Q. And inquiring of whom?

20 A. Inquiring -- well, from Ashe and Sloan. Because  
21 they were the arresting officers.

22 And they had Inspector Flores, who was the lead  
23 investigator on the case. And usually a bail schedule is  
24 set for such incidents pertaining towards each charge.

25 And it was easy enough to know what the Ciardellages were,

1 so the bail schedule would have been very easy to find  
2 out. Because the DV inspectors -- the charges never  
3 change practically in DV. So the bail schedule we believe  
4 was \$50,000.

5 Q. So you were discussing bail while you were still  
6 in Captain Hennessey's office?

7 A. Yes. Because I was under arrest.

8 Q. And who -- was everybody discussing the amount of  
9 possible bail?

10 A. Everyone who was in the room, yes.

11 Q. And at this point --

12 A. Everyone may not have joined in the conversation,  
13 but we were discussing the bail amount. And John Loftus  
14 was in between finding out what the bail was going to be.

15 Q. I see. So at some point, Lieutenant Loftus left  
16 the room?

17 A. Yes. Went outside.

18 Q. And who do you believe he went and spoke to?

19 A. Ashe and Sloan.

20 Q. And what did he inform you that Ashe and Sloan  
21 had said?

22 A. Then he came back in the room, and we were  
23 informed that there had been a bail enhancement of  
24 \$50,000.

25 Q. So who informed you of that?

1 MS. BAUMGARTNER: Did he know it then.

2 WITNESS: They were asking for a bail  
3 enhancement, and they hadn't -- while we were in the room,  
4 Loftus informed us that they were asking for a bail  
5 enhancement. We didn't know what the amount was going to  
6 be until -- Inspector Flores was at the judge -- I believe  
7 at the time, in front of the judge requesting the bail  
8 enhancement.

9 MS. BAUMGARTNER: Q. So you knew while you were  
10 still in --

11 A. They were asking for a bail enhancement.

12 Q. Let me finish the question.

13 You knew while you were still in Captain  
14 Hennessey's office that Inspector Flores would be asking  
15 for a bail enhancement, but you didn't know at that time  
16 that one had been ordered?

17 A. I knew at the time that he was at the judge  
18 asking for a bail enhancement.

19 Q. Oh, I see. That's done outside your presence?

20 A. Yes. It has to go through a Superior Court judge  
21 with an affidavit and the reasons why they're requesting  
22 bail enhancement for approval.

23 Q. I see. So you knew he was asking for bail  
24 enhancement?

25 A. Yes. That's what I was informed. That they were

1 asking for a bail enhancement.

2 Q. And did anybody inform you at the time the basis  
3 for asking for the bail enhancement?

4 A. No.

5 Q. And then what happened after that discussion  
6 about bail?

7 A. Mike Lewis left the room, he went across the  
8 street and arranged bail.

9 Q. With a bail bonds person?

10 A. Yes.

11 Q. So he left the room, then what happened?

12 A. We were all in the room together, and I just, you  
13 know, couldn't believe what was happening.

14 Q. Did you ever go down to whatever room it is where  
15 you get fingerprinted? 375 or something like that? The  
16 ID --

17 A. Why would I go there?

18 Q. I don't know. I'm just asking.

19 A. No.

20 Q. Okay. How long were you in Captain Hennessey's  
21 office total?

22 A. I don't know. Until everything was concluded  
23 with the bail.

24 Q. Do you have an estimate as to how long that took?

25 A. 45 minutes to an hour maybe.



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1 Q. During this entire time, you were waiting in  
2 Captain Hennessey's office?

3 A. Correct.

4 Q. Where did you go after Captain Hennessey's  
5 office?

6 A. While in Captain Hennessey's office, they took my  
7 property from me -- my watch, my rings, all my stuff they  
8 needed to book in -- and then they took me to CJ9 where  
9 they had broadcasted over citywide band that the jail was  
10 being closed because they were booking a police officer.

11 Q. So what kind of property did they take?

12 A. My cufflinks, my watch, my ring, my belt, my  
13 money, my tie, all my stuff that you're not allowed to  
14 have in jail.

15 Q. And who took that?

16 A. Lieutenant Loftus and Captain Cashman inside of  
17 Captain Hennessey's office.

18 Q. And then, I'm sorry, then they took you to CJ9?

19 A. Oh. Prior to that, though, the key factor is  
20 that when Lieutenant -- Captain Ashe -- I mean, Captain  
21 Cashman came back in and told me I wouldn't be able to  
22 give a statement, Lieutenant Sloan came back into the room  
23 and made a statement in front of us that no matter what I  
24 said, it wasn't going to change anything.

25 Q. Okay. So Lieutenant Sloan at some point returned

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1 A. Yeah.

2 Q. Someone's been arrested.

3 A. Right.

4 Q. The DA's Office can then rebook, which means that  
5 they actually charge someone with a crime at that  
6 particular time?

7 A. Right.

8 Q. File what's considered a criminal complaint, I  
9 suppose?

10 A. Right.

11 Q. Then you said that they can be kicked and  
12 released?

13 A. Well, if someone has been arrested and the DA  
14 doesn't charge that case -- when someone is arrested,  
15 they're in the jail. The case goes to whatever bureau it  
16 happens; DV, burglary, or whatever. Whatever that person  
17 has been arrested for. It's a rebooking. That inspector  
18 gets that case, does the whole work-up on it, types  
19 everything up, goes and interviews the suspect, talks to  
20 the victim again, and takes that whole case down to the  
21 DA.

22 At the time, the DA looks at the case, reviews it  
23 and decides whether to kick it -- which means it's gone  
24 bye-bye -- the suspect in custody is released, or the DA  
25 recharges a case, or the DA can also 27 a case -- which

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1 means further investigation -- and the suspect would be  
2 released. And that inspector would have to do more and  
3 more work, then they would have to get a warrant for that  
4 guy and bring him into custody.

5 MR. SCOTT: But that's not what happened in this  
6 case.

7 MS. BAUMGARTNER: Well, first of all, I object to  
8 you testifying.

9 Second of all, I'm trying to figure out what did  
10 happen in this case.

11 MR. SCOTT: I'm not testifying. I'm just making  
12 a point that your question is really irrelevant because  
13 it's not what happened in this case.

14 MS. BAUMGARTNER: Well, that's what we're trying  
15 to determine, isn't it.

16 MR. SCOTT: We already know what happened. It's  
17 in the chron. It's documented.

18 MS. BAUMGARTNER: Q. So in this particular case,  
19 you were arrested, correct?

20 A. After the case had been presented to the DA.

21 Q. Okay.

22 A. And the DA refused to file it.

23 Q. What is your understanding of what happened after  
24 you were arrested with respect to the inspector's  
25 communications with the DA?

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1 Q. -- when you were informed that you were being  
2 disarmed?

3 A. No.

4 Q. So you didn't call the union?

5 A. No.

6 Q. Is there a reason why not?

7 A. Is there a reason I should?

8 Q. Most people do upon getting disarmed.

9 A. Well, I mean, it's a Chief's Order. The way  
10 things work in the police department, as you well know, it  
11 takes forever and a day to get anything resolved. Just  
12 calling the union would just be calling them, and that  
13 would have been about it. It wasn't going to get anything  
14 resolved for the next nine or ten, you know.

15 Q. Okay. So after you received this Chief's Order,  
16 you were given an opportunity for a hearing, correct?

17 A. Correct.

18 MS. BAUMGARTNER: This will be Defendant's  
19 Exhibit 9.

20 (Whereupon, Defendant's  
21 Exhibit 9 was marked for  
22 identification.)

23 MS. BAUMGARTNER: Q. What is this document?

24 A. Well, it's a decision from the Chief stating that  
25 I remain suspended pending a Police Commission hearing.

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1 Q. So this indicates you had a hearing on  
2 August 3rd, 2005, correct?

3 A. I had a back-to-work hearing. Yes.

4 Q. And were you represented at that hearing?

5 A. Yes.

6 Q. By whom?

7 A. James Collins.

8 Q. And did you make a statement at the hearing?

9 A. No. It was a taped hearing. And if I recall, I  
10 didn't make any statements. I mean, Mr. Collins did most  
11 of the talking.

12 MR. SCOTT: Just answer the question.

13 MS. BAUMGARTNER: Q. So as far as you know, you  
14 didn't make a statement at the hearing?

15 A. No.

16 Q. Did you present anything about your side of the  
17 story on the domestic violence allegations?

18 A. Mr. Collins did all the talking. He made  
19 statements about that.

20 MS. BAUMGARTNER: Let me mark this as Defendant's  
21 Exhibit 10.

22 (Whereupon, Defendant's  
23 Exhibit 10 was marked for  
24 identification.)

25 MS. BAUMGARTNER: Q. Have you seen this document

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1 A. About six months ago, eight months ago.

2 Q. Do you know if he was interviewed before he was  
3 arrested?

4 A. No. I don't know.

5 Q. What is his race?

6 A. He's black.

7 Q. Anybody else you can think of?

8 A. His wife is white, too. But that doesn't make a  
9 difference, I guess.

10 No. No one else.

11 Q. Do you have any idea what percentage of the San  
12 Francisco Police Department is African American?

13 A. No. Maybe 10, 11 percent. Less than that, I  
14 think.

15 Q. Do you know what percent of those African  
16 American officers are married to white spouses or spouses  
17 of a different race?

18 A. No, I don't.

19 Q. Do you know how many interracial marriages there  
20 are throughout the department?

21 A. No, I don't.

22 Q. So misconduct charges were eventually brought  
23 against you, the case was filed with the Commission,  
24 correct?

25 A. Yeah. About the 20th something of December of

1 last year.

2 Q. Those charges are still pending?

3 A. Yes.

4 Q. And those charges included both the domestic  
5 violence charges and the computer-related charges?

6 A. Yeah. And two more.

7 Q. Two more what?

8 A. Charges. There's more charges.

9 Q. What were the other charges?

10 A. I think one was evading -- impeding an  
11 investigation.

12 Q. Oh, that was -- okay. That was based on the gag  
13 order in your --

14 A. The court order.

15 Q. Yeah. Are there any dates scheduled in that  
16 case?

17 A. No.

18 Q. To your knowledge, is there any law that actually  
19 requires the police department to obtain some type of  
20 commitment from the District Attorney's Office to  
21 prosecute before the police department arrests somebody?

22 A. One more time, please?

23 Q. Is there any law, to your knowledge, that  
24 requires the police department to obtain a commitment from  
25 the District Attorney's Office to prosecute a matter

POLICE DEPARTMENT  
CITY AND COUNTY OF SAN FRANCISCOTHOMAS J. CAHILL HALL OF JUSTICE  
850 BRYANT STREET  
SAN FRANCISCO, CALIFORNIA 94103-4603HEATHER J. FONG  
CHIEF OF POLICE**COPY**

September 26, 2005

Inspector Clifford L. Cook  
Star Number 881  
Robbery Unit  
850 Bryant Street  
San Francisco, CA 94103

RECEIVED	
Date:	9/27/05
Name:	[Signature]

Re: JCT C05-094  
Return to Restricted Duty

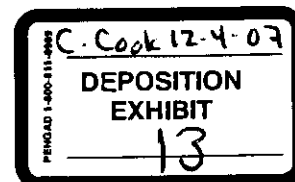
Dear Inspector Cook:

On July 27, 2005, you were suspended from your duties and disarmed pending resolution of charges to be filed with the Police Commission. In the interim, the District Attorney's Office has declined to criminally prosecute you for charges related to the incident for which you were suspended.

Therefore, based on my understanding of this matter, I hereby order that you return to duty in the Robbery Detail, effective September 27, 2005. Your Star will be returned to you; however, you will remain unarmed, with the Identification Card you currently possess that does not allow for the possession of concealable firearms. The July 27th order that you not carry a concealable firearm on or off duty remains in effect.

Report to the Commanding Officer of the Personal Crimes Division, Captain Kevin Cashman, at 0900 hours on September 27, 2005.

Sincerely,

HEATHER J. FONG  
Chief of Policecc: Police Commission  
Human Resources  
Office of the Chief  
Deputy Chief Morris Tabak  
Captain Kevin Cashman  
Mr. James Collins, Esquire  
Mr. Steve Johnson, SFPOA  
Controller  
Personnel Division  
Payroll Section  
Management Control Division



# Memorandum

San Francisco Police Department

To: Inspector Dan Gardner  
Acting O.I.C./ Robbery Detail

ANTONIO T. PARRA #1021  
Deputy Chief, Administration  
*rec'd. 9/29/05*



From: Inspector Clifford Cook *cc*  
Robbery Detail

Kevin Cashman  
Captain #936

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date: Tuesday, September 20, 2005

Deputy Chief Morris Tabak  
Investigations Bureau

Subject: Request to return to work

Sir: On Monday, September 19, 2005, I was notified by you that the District Attorney's Office declined to file formal charges against me in the matter for which I am currently suspended.

I am requesting that I be allowed to return to work immediately at my current assignment at the Robbery Detail.



Respectfully submitted,

# **EXHIBIT "2"**

**CIVIL MINUTES**

**Judge CHARLES R. BREYER**

Date: **October 26, 2007**

**C-07-02569 CRB**

**CLIFFORD COOK v. CITY AND COUNTY OF SAN FRANCISCO**

Attorneys: Lizabeth N. De Vries Margaret Baumgartner

Deputy Clerk: **BARBARA ESPINOZA** Reporter: **Sahar McVickar**

**PROCEEDINGS:**

**RULING:**

1. D's Motion to Dismiss Granted in part/  
Denied in part
2. \_\_\_\_\_
3. \_\_\_\_\_

**ORDERED AFTER HEARING:**

The 1983 claim granted in part/denied in part, equal protection claims are denied, due process granted without leave to amend , Monell claim is granted with leave to amend and the FEA claim is denied pending resolution of the Title VII claim. The defendant to take plaintiff's deposition not to exceed 4 hours with the right to further deposition if the matter goes forward, plaintiff's discovery is limited to the 56f motion.

( ) ORDER TO BE PREPARED BY: Plntf \_\_\_\_\_ Deft \_\_\_\_\_ Court \_\_\_\_\_

(X) Motion for Summary Judgment filed on or before: January 18, 2008

(X) CASE CONTINUED TO February 22, 2008 @ 10:00 a.m. for Motion

Discovery Cut-Off \_\_\_\_\_ Expert Discovery Cut-Off \_\_\_\_\_

Plntf to Name Experts by \_\_\_\_\_ Deft to Name Experts by \_\_\_\_\_

P/T Conference Date \_\_\_\_\_ Trial Date \_\_\_\_\_ Set for \_\_\_\_\_ days

Type of Trial: ( ) Jury ( ) Court

Notes: \_\_\_\_\_